

EXHIBIT 5

Washington, DC

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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MASSACHUSETTS

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IN RE: PHARMACEUTICAL : MDL NO. 1456

INDUSTRY AVERAGE WHOLESALE : CIVIL ACTION

PRICE LITIGATION : 01-CV-12257-PBS

THIS DOCUMENT RELATES TO : U.S. ex rel.

Ven-a-Care of The Florida : Judge Patti B. Saris

Keys, Inc. :

v. :

Abbott Laboratories, Inc., : Chief Magistrate

No. 06-CV-11337-PBS : Judge Marianne B.

- - - - -x Bowler

THOMAS A. SCULLY - VOLUME II

JULY 13, 2007

WASHINGTON, DC

(CAPTION CONTINUED)

1 there were these kinds of spread in terms like
2 Ipatropium Bromide and drugs like Albuterol?

3 MR. NEAL: I'll object to the form.

4 A. It's abundantly on the record, for many
5 years, they knew all about it, I'm not sure they
6 understood it that well, but they certainly knew
7 about it.

8 See, when I came in, in 2001, it was
9 very -- I don't think there was a lot of stomach
10 for fixing it, I spent a lot of time trying to
11 create political support for fixing it.

12 Q. So the issue was not knowledge but it
13 was generating the right political support to
14 make these changes; right?

15 A. It's one thing to have the aging
16 committee having a hearing and wave an OIG
17 report, it's another thing to get 218 votes in
18 the House and 60 votes in the Senate to fix it
19 when the constituents -- 218 votes in the House
20 and 60 in the Senate to fix the reimbursement
21 when you have constituents screaming and yelling
22 that they don't want it changed. So it was a

1 political issue.

2 (Exhibit Roxanne 003 marked for
3 identification.)

4 BY MR. GORTNER:

5 Q. I'm going to hand you what's been
6 marked -- pre-marked as Exhibit Roxane 003. For
7 the record, this is an Office of Inspector
8 General report entitled update excessive Medicare
9 reimbursement for Ipatropium Bromide, and it's
10 dated January, 2004.

11 Mr. Scully, I will ask you to quickly
12 flip through this document and let me know if you
13 recognize it?

14 A. I remember, generally, I don't remember
15 reading it, specifically.

16 Q. Would you turn to page one of the
17 report? And at the top of page one there's a
18 paragraph entitled objective, and it reads, to
19 update data provided in a 2002 report comparing
20 Medicaid -- Medicare reimbursement for Ipatropium
21 Bromide to prices available to Medicaid, the
22 supplier community, and the Department of